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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,154	10/29/2003	Judy-Lynne Alley	3961P2596	6586

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EXAMINER
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HOEY, ALISSA L

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/696,154

Applicant(s)

ALLEY, JUDY-LYNNE

Examiner

Alissa L. Hoey

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) 3, 12 and 20-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-11 and 13-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. An amendment was received on 05/23/06. Claims 1 and 10 were amended.  
Claims 1, 2, 4-11 and 14-18 are finally rejected below.

### ***Affidavit/Declaration***

2. The affidavit filed on 11/21/05 under 37 CFR 1.131 was sufficient to overcome the Aarons reference before independent claims 1 and 10 were amended. Now that claims 1 and 10 require the slip-resistant projections to be located on both the palmer and dorsal surfaces the affidavit is silent about conception of this being 11/18/02.

### ***Double Patenting***

3. The provisional obviousness-type double patenting rejection has been withdrawn due to express abandonment of application no. 10/851,749.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4, 6-11, 13, 15-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Aarons (US 6,766,536).

In regard to claim 1, Aarons teaches a slip-resistant extremity covering (10) for a person wanting to increase the gripping surface on smooth floors or gym mats, which would include yoga exercise (column 1, lines 17-23). The extremity covering dimensioned to fit snugly around an extremity of a person and having a palmer surface and a dorsal surface (figures 1, 2 and 3). The extremity covering being constructed of a sufficiently malleable material so as to allow an extremity a full range of movement (column 1, lines 17-23). A slip-resistant material coupled to the palmer surface and the dorsal surface (figures 1, 2 and 3). The slip-resistant material (22) having a high coefficient of friction while at the same time allowing the extremity a full range of movement while inside the extremity covering (column 3, lines 48-59).

In regard to claim 2, Aarons teaches the extremity covering being dimensioned to fit snugly around a hand of a person (figures 11-13).

In regard to claim 4, Aarons teaches the slip-resistant material comprising a plurality of raised surfaces having a high coefficient of friction (column 5, lines 13-22).

In regard to claim 6, Aarons teaches the slip-resistant material comprising an electret material having a high coefficient of friction (column 4, lines 9-20).

In regard to claim 7, Aarons teaches the slip-resistant material comprising a uniform surface having a high coefficient of friction (column 5, lines 24-31).

In regard to claim 8, Aarons teaches the extremity covering being comprised of a breathable cotton-lycra fabric (column 4, lines 42-45).

In regard to claim 9, Aarons teaches the extremity covering comprising an absorbent material dimensioned to absorb perspiration (column 4, lines 42-45).

In regard to claim 10, Aarons teaches a method for practicing yoga comprising the step of providing an extremity covering dimensioned to fit snugly around an extremity of a person (column 4, lines 32-41). The extremity covering having a palmer surface (12) and a dorsal surface (14). Providing a slip-resistant material (22) coupled to one of the palmer surface and the dorsal surface (figures 11-13). Inserting an extremity of a person into the extremity covering and practicing a yoga technique (column 7, lines 15-34).

In regard to claim 11, Aarons teaches the step of inserting a hand into the extremity covering and the covering being dimensioned to fit snugly around a hand of a person (figures 11-13).

In regard to claim 13, Aarons teaches the slip-resistant material comprising a plurality of raised surfaces having a high coefficient of friction (figures 3A-7).

In regard to claim 15, Aarons teaches the slip-resistant material comprising an electrometric material having a high coefficient of friction (column 4, lines 56-57).

In regard to claim 16, Aarons teaches the slip resistant material comprising a uniform surface having a high coefficient of friction (column 5, lines 23-25).

In regard to claim 17, Aarons teaches the extremity covering being comprised of a breathable cotton-lycra type fabric (column 4, lines 42-45).

In regard to claim 18, Aarons teaches the extremity covering comprising an absorbent material dimensioned to absorb perspiration (column 4, lines 42-45).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aarons.

In regard to claim 5 and 14, Aarons fails to teach the plurality of raised surfaces being substantially dumbbell shaped. However, Aarons teaches that the raised non-slip surfaces can be any of a variety of suitable shapes (figures 4-7).

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the raised surfaces being dumbbell shaped because Applicant has not disclosed that the raised surfaces being dumbbell shaped provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicants invention to perform equally well with the raised surfaces being dumbbell, hemispherical or cylindrical in shape because as long as the raised surfaces are non-slip and provide traction to the covering the shape is not critical as supported in Applicant's specification on page 8, lines 1-6. Therefore, it would have been an obvious matter of design choice to modify Aarons to obtain the invention as specified in claims 5 and 14.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulkin (US 5,500,956).

In regard to claim 1, Schulkin teaches a slip-resistant extremity covering (1) for a person wanting to increase the gripping surface during working out, which would include yoga exercise (column 1, lines 5-10). The extremity covering dimensioned to fit snugly around an extremity of a person and having a palmer surface and a dorsal surface (figures 1 and 2). The extremity covering being constructed of a sufficiently malleable material so as to allow an extremity a full range of movement (column 2, lines 42-49). A slip-resistant material coupled to at least one of the palmer surface and the dorsal surface (figures 1 and 2). The slip-resistant material (25) having a high coefficient of friction while at the same time allowing the extremity a full range of movement while inside the extremity covering (column 4, lines 54-66). Further, Schulkin teaches the slip-resistant material coupled to the palmer surface and at least a portion of the dorsal surface (see column 4, lines 54-62).

In regard to claim 2, Schulkin teaches the extremity covering being dimensioned to fit snugly around a hand of a person (figures 1 and 2).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulkin et al.

Schulkin teaches a slip-resistant extremity covering as described above in claims 1 and 2. However, Schulkin fails to teach wearing the extremity covering while practicing a yoga technique.

It would have been obvious to have provided the apparatus of Schulkin to be used during the method as described in claim 10 and 11, since the slip-resistant extremity covering is capable of being worn during yoga and one playing basketball is also capable of stretching before play using a yoga position for stretching.

***Response to Arguments***

8. Applicant's arguments filed 05/23/06 in regard to the Schulkin rejection have been fully considered but they are not persuasive.

Applicant argues that Schulkin fails to teach slip-resistant projections on both the palmer and dorsal surfaces of the extremity covering.

Examiner disagrees, since Schulkin teaches in column 4, lines 54-62 the use of slip resistant projections on both the front and back portions of the thumb.



9. Applicant's arguments with respect to the rejection of Kaspar have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

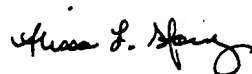
10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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